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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/821,563

03/29/2001

Dean Rosales

ITL.0536US (P10841)

5880

21906 7590 05/06/2009
TROP, PRUNER & HU, P.C.
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HOUSTON, TX 77057-2631

EXAMINER

TUCKER, WESLEY J

ART UNIT

PAPER NUMBER

2624

MAIL DATE

DELIVERY MODE

05/06/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DEAN ROSALES

Application No. 09/821,563
Technology Center 2600

Mailed: May 6, 2009

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on March 12, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention.

REQUEST TO REOPEN PROSECUTION

On January 21, 2009, Appellant filed a Request to Reopen Prosecution based on the new grounds of rejection in the Examiner's Answer.

Under the *Manual of Patent Examining Procedure* (MPEP) § 1207.03 (8th ed. Rev. 6, September 2007), Appellant must either file a reply brief addressing each new ground of rejection or file a reply in compliance with 37 C.F.R. § 1.111 to request prosecution be reopened. The reply must be filed within two months from the date of the examiner's answer to avoid *sua sponte* dismissal of the appeal as to the claims subject to the new grounds of rejection. See MPEP § 1207.03 for details.

Because the Appellant timely filed a request to reopen prosecution, prosecution is reopened and the appeal is withdrawn. The application is returned to the Examiner to address the request.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) address Appellant's request to reopen prosecution; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/BIM

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